



**THE ATTORNEY GENERAL
OF TEXAS**

GROVER SELLERS
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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Otto Brittain
County Auditor
Angelina County
Lufkin, Texas

Dear Sir:

Opinion No. 0-7115

Re: Authority of the commissioners' court to spend funds derived from taxation for permanent improvement purposes to maintain a County Health Unit.

Your letter of recent date requesting an opinion from this department on the above subject matter is as follows:

"Please advise if the Commissioners' Court has the authority to spend funds derived from taxation for permanent improvement purposes to maintain a County Health Unit, that is, to pay salaries, supplies, etc., for the Health Unit."

Section 9 of Article 8 of the Constitution of Texas inhibits any and all transfers of tax money of the several classes of constitutional funds and, as a sequence, prohibits the expenditure, for one purpose, of tax money raised ostensibly for another such purpose. *Carroll v. Williams*, 202 S.W. 504, 505.

In 26 Words and Phrases 81, we find the following:

"To 'maintain' means to preserve or keep in an existing state or condition, and embraces acts of repair and other acts to prevent a decline, lapse or cessation from that state of condition, * * *" (See also other cases cited in 26 Words and Phrases, pp 77 through 92, under the heading of "Maintenance."

Under the cases cited in Words and Phrases, supra, it is our opinion that the maintenance of a County Health Unit does not constitute permanent improvements.

We held in our Opinion No. 0-2281, a copy of which is herewith enclosed, that the commissioners' court had the au-

thority to expend money from the general funds of the county and in behalf of public health and sanitation within the county.

In view of the above authorities, it is our opinion that the commissioners' court does not have the authority to spend funds derived from taxation for permanent improvement purposes to maintain a County Health Unit.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By s/J. C. Davis, Jr.
J. C. Davis, Jr.
Assistant

By s/John Reeves
John Reeves

JR:LJ:wc

APPROVED MAR 5, 1946
s/Carlos C. Ashley
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By s/BWB Chairman